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STEEL & MINES DEPARTMENT

NOTIFICATION

The 24th April, 2023

No.4050—SM-MC3-ARFA-0002/2023/SM.— In exercise of the powers conferred by sub-section (1) of Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the State Government do hereby make the following rules further to amend the Odisha Minor Mineral Concession Rules, 2016, namely:—

1. (1) These rules may be called the Odisha Minor Mineral Concession (Amendment) Rules, 2023.

(2) They shall come into force on the date of their publication in the *Odisha Gazette*.

2. In the Odisha Minor Mineral Concession Rules, 2016, (hereinafter referred to as the said rules), in rule 2, in sub-rule (1), —

(i) for clause (c), the following clause shall be substituted, namely:—

“(c) ‘Authorized Officer’ means the Director of Mines and Geology in respect of Specified Minor Minerals and Director of Minor Minerals in respect of Minor Minerals Other than Specified Minor Minerals or any officer duly Authorized by the Government in writing for the purpose;”

(ii) for clause (o), the following clause shall be substituted, namely:—

“(o) ‘Joint Director’ means the Joint Director of Mines, Odisha in respect of Specified Minor Minerals and Joint Director of Minor Minerals in respect of Minor Minerals Other than Specified Minor Minerals.”

(iii) for clause (p), the following clause shall be substituted, namely:—

“(p) ‘Minimum guaranteed quantity’ means, in respect of sources for which the mining plan has been approved, the quantity of annual extraction approved for the year concerned as per the mining plan and in respect of sources for which

mining plan has not been prepared and approved, such annually extractable quantity as may be assessed by the Competent Authority with the approval of the Controlling Authority as the reasonable quantity that may be extracted from the source considering its potential.”

(iv) for clause (dd), the following clause shall be substituted, namely:—

“(dd) ‘Director of Mines’ means the Director of Mines and Geology, Odisha in respect of Specified Minor Minerals and Director of Minor Minerals in respect of Minor Minerals Other than Specified Minor Minerals.” and

(v) after clause (dd), the following clause shall be inserted, namely:—

“(ee) ‘Additional Director’ means the Additional Director of Mines, Odisha in respect of Specified Minor Minerals.”

3. In the said rules, in rule 4, in sub-rule (13),—

(i) in clause (a), the following provisos shall be inserted, namely :-

“Provided that for the cases covered under this clause including the pending cases, the right to obtain mining lease shall lapse on expiry of one year from the date of Commencement of the OMMC Amendment Rules’ 2023 :

Provided further that the holder of prospecting licence whose rights lapsed under the first provision, shall be reimbursed the expenditure incurred towards prospecting operations in such a manner as may be prescribed by the State Government.”

(ii) after clause (b), the following clause shall be inserted, namely :-

“(c) in cases where right to obtain a mining lease has lapsed under clauses (a) and (b), such areas shall be put up for auction as per the provisions of this rules:”

4. In the said rules, in rule 9, in sub-rule(4), for the words “*the earnest money as deposited by the auction holder shall be forfeited to the State Government.*”, the words “*the Bid Security as deposited by the auction holder shall be forfeited by the State Government.*” shall be substituted.

5. In the said rules, in rule 10,—

- (i) for sub-rule (4), the following sub-rule shall be substituted, namely :—

“(4) The applicant having a net worth of less than 0.5 % of the value of estimated mineral resource shall not be eligible for participating in the auction process for grant of a prospecting license-cum- mining lease:

Provided that the net worth requirement shall not exceed twenty five crore rupees.

Explanation:—

(a) In case of an individual, the net worth shall be the closing cash balance (which amount may include amount in savings bank accounts in Scheduled Bank or Post Office, free and un-encumbered fixed deposits in Scheduled Banks, Post Office, Listed Companies or Government organisation or Public Sector Undertaking of a State and the Central Government, Kisan Vikas Patra, National Saving certificate, Bonds, Shares of Listed Companies, Listed Mutual Funds, Unit Linked Insurance Plan, Public Provident Fund, Surrender Value of Life Insurance policies, and un-encumbered immovable property in the name of applicant) as on date of notice inviting tender.

(b) In case of a company, the net worth shall be the sum of the paid-up share capital and the free reserves as per the audited balance sheets of the financial year immediately preceding the date of issuance of notice inviting tender.

Provided that in case the notice inviting tender is issued between 1st April to 30th September (both days inclusive) of a year, the audited balance sheet of the financial year before the immediately preceding financial year, from the date of issuance of notice inviting tender, may be submitted by the applicant, if the audited balance sheet of the immediately preceding financial year is not available.

Provided further that, in case an applicant is a subsidiary of another company incorporated in India, the net worth of such holding company may also be considered subject to the condition that the applicant shall continue to be a subsidiary of such holding company until such time the applicant meets the aforementioned net worth threshold.

(c) In case of a partnership firm, the net worth shall be the sum of partners' capital account of financial year immediately preceding the date of issuance of notice inviting tender.

Provided that in case the notice inviting tender is issued between 1st April to 30th September (both days inclusive) of a year, the sum of partners' capital account as on the financial year before the

immediately preceding financial year, from the date of issuance of notice inviting tender, may be submitted by the applicant, if the sum of partners' capital account as on the immediately preceding financial year is not available."

- (ii) for sub-rule (5), the following sub-rule shall be substituted, namely:-

"(5) The value of estimated mineral resource under sub-rule (4) shall be calculated by multiplying the quantity of estimated mineral resource with the average sale price of the mineral published by Director of Mines & Geology for a period of twelve months immediately preceding the month of calculation of value of estimated mineral resources :

Provided that if for any mineral the average sale price for any month is not published by Director of Mines & Geology, the average sale price for the latest month published for such mineral shall be deemed to be the sale price for the said month for which sale price is not published.

Explanation:— Sale price should represent the sale value of the mineral at the pit head. In case of sale affected on F.O.R or F.O.B or any other basis, the sale price should be arrived at after deducting all the expenses incurred from mine to railway station or port or other point of sale, as the case may be (such as expenses on transportation, loading and unloading, railway freight, sampling and analysis, port handling, export duty, cess etc.)."

- (iii) for sub-rule (9), the following sub-rule shall be substituted, namely:—

"(9) The intending applicants participating in the auction shall submit the following documents in asealed cover along with the Form specified for the purpose duly filled in:—

- (i) ***;
- (ii) An affidavit stating that no mining due payable under the Act and the rules made thereunder, is outstanding against the applicant;
- (iii) ***;
- (iv) a Net Worth Certificate reflecting a minimum net worth of the amount prescribed in sub-rule (4).
- (v) An affidavit stating that the applicant is not convicted for any offence committed for violation of any of the provisions of the Mines

and Minerals (Development and Regulation) Act, 1957 and rules made thereunder.”

- (iv) in sub-rule (10), the proviso shall be omitted;
- (v) for sub-rule (12), the following sub-rule shall be substituted, namely:—
 “(12) The selected bidder shall, convey his acceptance of the terms and conditions within fifteen days of such intimation and deposit a sum equivalent to zero point two five percentum of the value of estimated mineral resources, subject to a maximum of ten crore rupees, towards part of security deposit and such deposit shall be held as, interest-free security deposit for due observance of the terms and conditions of the prospecting license-cum-mining lease.”
- (vi) for sub-rule (13), the following sub-rule shall be substituted, namely:—
 “(13) In the event of default by the selected bidder, the Competent Authority may issue an intimation as specified in sub-rule (11) to the next highest bidder who shall then be required to convey his acceptance, including of the rate of additional charge submitted by the highest bidder, and to make the security deposit as specified in sub-rule (12).” and
- (vii) for sub-rule (15), the following sub-rule shall be substituted, namely:—
 “(15) Immediately after compliance of the selected bidder, the bid security of the unsuccessful bidders and of selected bidder shall be refunded.”

6. In the said rules, in rule 15, in sub-rule (5), for the words “the earnest money”, the words “the Bid Security” shall be substituted.

7. In the said rules, in rule 16,—

- (i) for sub-rule (3), the following sub-rule shall be substituted, namely :—

“(3) The applicant having a net worth of less than one percentum of the value of estimated mineral resources shall not be eligible for participating in the auction process for grant of a mining lease.

Provided that, the net worth requirement shall not exceed fifty crores rupees.

Explanation:—

(a) *In case of an individual, the net worth shall be the closing cash balance (which amount may include amount in savings bank accounts in Scheduled Bank or Post Office, free and un-encumbered fixed deposits in Scheduled Banks, Post Office, Listed Companies or Government organisation or Public Sector Undertaking of a State and the Central Government, Kisan Vikas Patra, National Saving certificate, Bonds, Shares of Listed Companies, Listed Mutual Funds, Unit Linked Insurance Plan, Public Provident Fund, Surrender Value of Life Insurance policies, and un-encumbered immovable property in the name of applicant) as on date of notice inviting tender.*

(b) *In case of a company, the net worth shall be the sum of the paid-up share capital and the free reserves as per the audited balance sheets of the financial year immediately preceding the date of issuance of notice inviting tender.*

Provided that in case the notice inviting tender is issued between 1st April to 30th September (both days inclusive) of a year, the audited balance sheet of the financial year before the immediately preceding financial year, from the date of issuance of notice inviting tender, may be submitted by the applicant, if the audited balance sheet of the immediately preceding financial year is not available.

Provided further that, in case an applicant is a subsidiary of another company incorporated in India, the net worth of such holding company may also be considered subject to the condition that the applicant shall continue to be a subsidiary of such holding company until such time the applicant meets the aforementioned net worth threshold.

(c) *In case of a partnership firm, the net worth shall be the sum of partners' capital account of financial year immediately preceding the date of issuance of notice inviting tender.*

Provided that in case the notice inviting tender is issued between 1st April to 30th September (both days inclusive) of a year, the sum of partners' capital account as on the financial year before the immediately preceding financial year, from the date of issuance of notice inviting tender, may be submitted by the applicant, if the sum of partners' capital account as on the immediately preceding financial year is not available."

(ii) for sub-rule (4), the following sub-rule shall be substituted, namely:—

“(4) The value of estimated mineral resource under sub-rule (3) shall be calculated by multiplying the quantity of estimated mineral resources as per exploration report with the average sale price of the mineral published by Director of Mines & Geology for a period of twelve months immediately preceding the month of calculation of value of estimated mineral resources.

Provided that if for any mineral the average sale price for any month is not published by Director of Mines & Geology, the average sale price for the latest month published for such mineral shall be deemed to be the sale price for the said month for which sale price is not published.

Explanation:— Sale price should represent the sale value of the mineral at the pit head. In case of sale affected on F.O.R or F.O.B or any other basis, the sale price should be arrived at after deducting all the expenses incurred from mine to railway station or port or other point of sale, as the case may be (such as expenses on transportation, loading and unloading, railway freight, sampling and analysis, port handling, export duty, cess etc.).”

(iii) for sub-rule (7), the following sub-rule shall be substituted, namely:—

(7) The intending applicants participating in the auction shall submit the following documents in a sealed cover along with the specified Form duly filled in, namely:—

(i) ***;

(ii) An affidavit stating that no mining due payable under the Act and the rules, made thereunder, is outstanding against the applicant;

(iii) ***;

(iv) a Net Worth Certificate reflecting a minimum net worth of the amount prescribed in sub-rule (3); and

(v) an affidavit stating that the applicant is not convicted for any offence committed for violation of any provision of the Act, and rules made thereunder.

(iv) in sub-rule (8), the proviso shall be omitted;

(v) for sub-rule (10), the following sub-rule shall be substituted, namely:—

“(10) The selected bidder shall, convey his acceptance of the terms and conditions within fifteen days of such intimation and deposit a sum equivalent to zero point two five percentum of the value of estimated mineral resources, subject to a maximum of ten crore rupees, towards part of security deposit and such deposit shall be held as, interest-free security deposit for due observance of the terms and conditions of the prospecting license-cum-mining lease.”

(vi) for sub-rule (11), the following sub-rule shall be substituted, namely:—

“(11) In the event of default by the selected bidder, the Competent Authority may issue an intimation as specified in sub-rule (9) to the next highest bidder who shall then be required to convey his acceptance, including of the rate of additional charge submitted by the highest bidder, and to make the security deposit as specified in sub-rule (10).” and

(vii) for sub-rule (13), the following sub-rule shall be substituted, namely:-

“(13) Immediately after compliance of the selected bidder, the bid security of the unsuccessful bidders and of selected bidder shall be refunded.”

8. In the said rules, in rule 18, in sub-rule (2), in clause (b), for sub-clause (iii), the following sub-clause shall be substituted, namely:-

“(iii) The lessee has adopted closure of the mine or part thereof in line with the provisions for major mineral under rules 24, 25, 26 and 27 of Mineral Conservation and Development Rules’ 2017.”

9. In the said rules, in rule 21, in sub-rule (1), for clause (vii), the following clause shall be substituted, namely:-

“(vii) Progressive mine closure plan in line with the provisions of rule 23 of Mineral Conservation and Development Rules’ 2017 with financial assurance for rupees twenty five thousand for every hectare of area or part thereof proposed to be put to use subject to a minimum amount of two lakh rupees; and”

10. In the said rules, in rule 26, for sub-rule (1), the following sub-rule shall be substituted, namely:—

“(1) The lessee shall pay to the State Government surface rent within fortnight of grant of permission for surface operation from the concerned District Collector as required under clause (e) of sub rule 1 of rule 17 of this rules for the remaining period of the year and thereafter pay such rent on or before 15th January of every year.”

11. In the said rules, in rule 27,—

(i) after sub-rule (1), the following sub-rules shall be inserted, namely:-

“(1A) The Competent Authority shall identify the minor mineral source to be notified for auction and recommend to the Controlling Authority for approval in

the i4MS portal by uploading the profile of the source along with specifying the minimum guaranteed quantity (MGQ) of the minor mineral to be extracted in a year by the applicant and the minimum amount of additional charge (MAC) payable for the same as determined under sub-rule (15).

(1B) The Controlling Authority, after due scrutiny and having satisfied with the proposal submitted by the Competent Authority, shall approve the minor mineral source identified by the competent authority to be put to auction. The Controlling Authority, while examining the proposal, may modify the proposed MGQ and MAC indicating the reasons for the same. All proposals so approved by the Controlling Authority shall be considered for notification after 10 days from the date of approval.

(1C) The Director of Minor Minerals shall have to concur in at least 10% of the cases approved by the Controlling Authority within 10 days of the date of approval by the Controlling Authority and while doing so, may modify the proposed MGQ and MAC indicating the reasons for the same.”

(ii) for sub-rule (2), the following sub-rule shall be substituted, namely:-

(2) The notice inviting applications in form of technical bids for grant of quarry lease shall be uploaded in the e-auction portal by the Competent Authority specifying the

- (i) the particulars of the area identified and demarcated using total station and differential global positioning system divided into forest land & other categories of land owned by the Government and private land;
- (ii) the minimum guaranteed quantity of the minor mineral to be extracted in a year by the applicant;
- (iii) the minimum amount of additional charge payable for the same as determined under sub-rule (15);
- (iv) the dateline for submission the application;
- (v) The date of opening of applications (technical bids); and
- (vi) The date of conducting the auction.

(iii) for sub-rule (4), the following sub-rule shall be substituted, namely:—

“(4) Subject to other provisions of these rules for settlement of quarry lease, the intending applicant may submit the technical bid for grant of quarry lease for such area or areas to the Competent Authority in the format of Form – M using the online electronic auction platform adopted by the Government and uploading the following documents and particulars, stated hereunder: —

- (i) Treasury challan showing deposit of one thousand rupees (non-refundable) towards the application fee;
- (ii) An affidavit stating that no mining due payable under the Act and the rules made thereunder, is outstanding against the applicant;
- (iii) Proof of payment of earnest money equivalent to five percentum of the minimum amount of additional charges specified in the notice and the amount of royalty, both calculated on the basis of minimum guaranteed quantity for one whole year for the minimum guaranteed quantity of minor mineral to be extracted in one full year; and
- (iv) Income Tax Return of previous financial year showing annual income for amount not less than the amount of additional charge offered and the royalty payable for the minimum guaranteed quantity for one whole year or Bank guarantee valid for a period of eighteen months for the amount not less than the amount as above.

and also submitting the application in a sealed cover in Form-M accompanied by the above said documents and particulars.”

(iv) after sub-rule (4), the following sub-rules shall be inserted, namely:-

“(4A) (1) No person shall be eligible to participate in the auction process for grant of quarry lease, unless such person, —

- (a) is an Indian national or company as defined in clause (20) of Section 2 of the Companies Act, 2013, (18 of 2013) or partnership firm as defined in Section 4 of the Indian Partnership Act, 1932;

Explanation: - For the purpose of this rule, a person shall be deemed to be an Indian national, -

(a) in the case of a partnership firm, only if all the partners of the partnership firm are citizens of India: and

(b) in the case of an individual, only if he is a citizen of India.

(2) The eligibility for participating in the auction shall be determined as per the terms and conditions of eligibility for participating in the auction as provided in the rules.

(4B) The auction shall be an ascending forward auction conducted in the e-auction platform.

(4C) The technical bids received physically and through online will be opened as per the schedule notified under sub-rule (2) of Rule 27 in presence of the bidders (applicants).

(4D) In case of a conflict between documents submitted electronically and document submitted physically, the documents submitted physically shall prevail. However, bids submitted physically shall not be accepted in absence of the corresponding online submission.

(4E) The technical bids shall be scrutinised by a Technical Committee constituted by the Government under the Chairmanship of respective Controlling Authority and only those bidders who are found to be eligible in accordance with the terms and conditions of eligibility as prescribed under Rule 27 (4A) of the Rules, shall be declared as "Technically Qualified Bidders" (TQB) and shall be allowed to participate in forward auction.

(4F) The forward auction shall be conducted electronically for a duration of 2 (two) hours commencing from the time as would be notified and the Technically Qualified Bidders shall submit their offer of additional charge, which needs to be in excess of the minimum additional charge notified under Rule 27(2) of the Rules by any multiple of increment as would be fixed for the forward auction:

Provided forward auction shall be conducted subject to the condition that at least two bidders are found technically qualified."

- (v) for sub-rule (5), the following sub-rule shall be substituted, namely:-

“(5) Subject to the provisions of these rules, the technically qualified bidder, who quotes the highest rate of additional charge will be declared as selected bidder.”

- (vi) after sub-rule (5), the following sub-rules shall be inserted, namely:—

“(5A) The auction process shall be annulled if none of the technically qualified bidders submits an offer of additional charge above the notified minimum additional charge.”

- (vii) for sub-rule (9), the following sub-rule shall be substituted, namely:—

“(9) In the event of default by the selected bidder, the Competent Authority may issue intimation as specified in sub-rule (6) to the next highest bidder to meet the highest additional charge offered by highest bidder, who shall then be required to convey his acceptance and to make the security deposit calculated in the manner mentioned in sub-rule (7) within 7 days of receipt of intimation.”

- (viii) sub-rule (10) shall be omitted;

- (ix) for sub-rule (11), the following sub-rule shall be substituted, namely:—

“(11) If the second highest bidder does not convey the acceptance within the time stipulated for such acceptance, the e-auction will be annulled and fresh notice inviting application for grant of quarry lease shall be issued.”

- (x) for sub-rule (13), the following sub-rule shall be substituted, namely:—

“(13) The selected bidder shall be required to execute quarry lease in Form-N within three weeks from the date of intimation of his selection, if the approval of the mining plan and environment clearance has been obtained before auction, and in other cases, three weeks from the date of receipt of statutory documents in all i.e. Mining Plan, Environment Clearance, Consent to Establishment (CTE) and Consent to Operate (CTO) failing which, the intimation shall stand cancelled and the security deposit shall stand forfeited:

Provided that the Controlling Authority may, for genuine and sufficient reasons, extend the said period for not more than three months, if it is satisfied that the delay in execution of lease deed is not due to reasons attributable to the selected bidder.”

12. In the said rules, in rule 28, in sub-rule (6), for clause (v), the following clause shall be substituted, namely:-

“(v) annual programme and plan for excavation on the area including the quantity of the minerals to be annually extracted; and”

13. In the said rules, in rule 32, in sub-rule (4), for the words appearing in the opening portion *“In case the actual extraction exceeds the minimum guaranteed quantity, such mineral”*, the words *“The quantity of extraction beyond the minimum guaranteed quantity,”* shall be substituted.

14. In the said rules, in rule 33,—

- i. for sub-rule (14), the following sub-rule shall be substituted, namely:—

“(14) The lessee shall abide by the provisions of all laws for the time being in force, relating to the working of quarries, processing, storage, and transportation of minerals and matters affecting the safety, health and convenience of the persons employed for quarrying, storage and transportation of the public. The lessee shall also obey all existing laws of way, water and other easements and shall not use power cutters and other machinery in case of laterite quarries.” and

- ii. in sub-rule (19), the following proviso shall be inserted, namely:—

“Provided that no such order will be issued without the lessee being given opportunity of personal hearing within 15 days from the due date.”

15. In the said rules, for rule 42, the following rule shall be substituted, namely:—

“42. Security deposit:— The successful bidder shall deposit rupees fifty thousand for a prospecting license-cum-mining lease, fifty thousand for mining lease and ten thousand for quarry lease, or, as the case may be, the amounts as prescribed in sub-rule 12 of rule 10 or sub-rule 10 of rule 16,

which ever is higher, before the deed is executed as security for due observance of the terms and conditions of prospecting license-cum-mining lease, or mining lease, or quarry lease, as the case may be.”

- 16.** In the said rules, in rule 51, in sub-rule (1), for clause (ii), the following clause shall be substituted, namely:—

“(ii) The Director or Additional Director or Joint Director or Deputy Director or Mining Officer or Assistant Mining Officer or Junior Mining Officer or Divisional Forest Officer or Assistant Conservator of Forest or Range Officer or Police Officer not below the rank of Sub-Inspector of Police may seize the minor minerals and its products together with all tools, equipment and vehicles used in committing such offence within their respective jurisdiction.”

- 17.** In the said rules, in rule 58,—

- (i) for sub-rule (1), the following sub-rule shall be substituted, namely:—

“(1) No holder of prospecting license-cum-mining lease or mining lease or quarry lease or quarry permit or auction purchaser shall despatch any minerals from an area without a valid transit pass in Form-Y issued electronically by Competent Authority –

- (a) the Deputy Director of Mines or Mining Officer having jurisdiction in case of specified minor minerals; and
- (b) the Competent Authority in case of minerals other than Specified Minor Minerals.”;

- (ii) sub-rule (2), shall be omitted;

- (iii) after sub-rule (2), the following sub-rules shall be inserted, namely:—

“(2A) Any person, who wishes to transport or remove any minor mineral from any place shall make an online application in i4MS portal complete in all respect in form-Y.

(2B) On receipt of the application in i4MS portal, the Competent Authority may cause an enquiry and approve the application with online issue of the pass within a period not exceeding 3 (three) days or reject the application for the reasons to be recorded in writing.

Provided that the validity of the pass shall not exceed two (2) days from the date of issue.

(2C) The applicant shall download and keep the copies of the pass to be produced before any inspecting/checking authority during transit of the minerals and also for claiming the reimbursement, if any.

(2D) The mining lease holder or prospecting license cum mining lease holder or quarry lease holder or quarry permit holder as the case may be, shall maintain a correct and intelligible account of the minerals transported by him every day, which shall be checked by the competent authority at regular interval.” ;

- (iv) in sub-rule (4), for the words, figures and brackets “*sub-rule (1)*”, the words, figures and brackets “*sub-rule (2B) of rule 58*” shall be substituted.
- (v) for sub-rule (5), for the words, figures and brackets “*sub-rule(2)*”, the words, figures and brackets “*sub-rule (4)*” shall be substituted; and
- (vi) for sub-rule (8), the following sub-rule shall be substituted, namely:-

“(8) With a view to check illegal mining, transportation and storage of minor mineral, the State Government may by order impose restrictions from time to time, if necessary, and may also issue guidelines/instructions /circulars for the purpose.”

- 18.** In the said rules, in Form-F [Intimation to successful Bidder], for the words “*earnest money*”, the words “*bid security*” shall be substituted.

By Order of the Governor
DEORANJAN KUMAR SINGH
Additional Chief Secretary to Government